IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.907 OF 2004
IN
NOTICE OF MOTION NO.1428 OF 2001
IN
L.C. SUIT NO.1801 OF 2001

Smt.Ushaben Shrawn Paikrao ... Appellant

V/s.

Municipal Corporation of
Greater Mumbai & Anr. ... Respondents

Mr.Rajendra Yadav for Appellant
Mr.J. Xavier for Respondent No.1
Mr.K.K. Tated for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **NOVEMBER 29, 2004**

P.C.:

. In the present matter, the Notice of Motion is yet to be heard by the trial Court. However, the interim relief which was granted was not continued by the trial Court by recording the statement made on behalf of the MHADA, Respondent No.2 herein, that no action would be taken against the appellant except after following the due process of law.

2. Mr.Yadav, learned Advocate for the appellant, submits that what was challenged in the suit is the notice issued to the appellant under section 351 by the

Mumbai Municipal Corporation, that is Respondent No.1 herein. Although the ad-interim order dated 31.3.2001 protected the appellant from the implementation of the notice under section 351, by the impugned order dated 8.10.2004, the ad-interim injunction granted is not continued. The ad-interim injunction granted on 31.3.2001 was continued from time to time and on 6th July 2001 the ad-interim injunction was extending to the day after the written statement was filed by the Respondents.

3. Mr.Yadav makes a statement that the suit structure has not been demolished as yet. In view of this and since the Motion is pending, in my view, it would be appropriate for the trial Court to dispose of the Motion expeditiously. Accordingly, the trial Court will decide the Motion within three months from today since the written statement has already been filed by the respondents. During the pendency of the Motion, the ad-interim relief granted by the trial Court on 31.3.2001 shall continue.

4. Appeal from Order is disposed of in the above terms.